

EXHIBIT 4



June 27, 2024

J. Scott Pritchard
600 University Street, Suite 3600
Seattle, WA 98101
D. 206.386.7585
Scott.Pritchard@stoel.com

VIA EMAIL

Frank Cornelius
Pierce County Prosecuting Office (Civil)
955 Tacoma Ave. S., Ste. 301
Tacoma, WA 98402-2160
frank.cornelius@piercecounitywa.gov

Re: Wolfclan v. Pierce County (C23-5399-TSZ-SKV) – ESI Collection Issues and Proposed Search Terms

Dear Frank:

We have reviewed Defendants' proposed ESI search terms, custodians, and databases, attached to this letter as Exhibit A, and for the reasons set forth below, they are insufficient. We have proposed some additions and ask that you please update the lists of custodians, search terms, and databases taking into account the information below.

Custodians:

You identified three entire Pierce County departments as "custodians." However, as stated in the ESI Order, section B(1), Defendants must identify "by name, title, connection to the instant litigation, and the type of information under the custodian's control" all of the custodians who are "most likely to have discoverable ESI in their possession, custody, or control." Listing the departments in which employees who have information may work does not sufficiently identify the custodians from whom ESI will be collected.

Please provide an updated list of individuals who are most likely to have discoverable ESI in their possession, custody, or control. While it is not Plaintiff's obligation to identify relevant custodians, particularly without the benefit of seeing Defendants' discovery responses that will presumably provide this information, we will do what we can now so that Defendants can move forward promptly with discovery. From Plaintiff's perspective, each of the Pierce County employees listed in Plaintiff's initial disclosures (served on June 25, 2024) is likely to have relevant information to this case. And there are, undoubtedly, other custodians likely to have discoverable information, including but not limited to County employees who manage jail plumbing and maintenance. That said, we are willing to work with you to narrow the list of custodians if Defendants can explain why any potential custodian is not likely to have relevant information. Plaintiff reserves the right to request additional custodians as discovery advances.

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Databases:

The databases identified by Defendants are also insufficient. First, as a general matter, the email accounts and MS Teams chats must be searched for all custodians, not just Ed Troyer, Patti Jackson, Matthew Dobson, and Anthony Mastendrea. The named defendants are not the only individuals likely to have discoverable ESI in their possession, custody, or control, as explained above.

Second, custodial databases also include non-email sources, such as documents or communications saved within folders on custodians' computers (on any laptop or desktop computer on which he/she has relevant information, whether personal or government-issued), voicemails, text messages and any other documents saved on custodians' cell phones, hard copy documents, etc.

Third, sections B(2)-(4) of the ESI Order require that Defendants also identify all non-custodial data sources, third-party data sources, and any inaccessible data sources. Non-custodial data sources would be, for example, shared drives, servers, and grievance kiosks. Third-party data sources would be, for example, third-party email providers, mobile device providers, cloud storage, etc. where relevant information is stored.

Please provide an updated list of all custodial and non-custodial databases that Defendants propose to search based on where relevant information is likely to be stored.

Search Terms:

The list of search terms Defendants propose is not nearly exhaustive enough to capture the documents relevant to the issues in this litigation. We suggest the following search terms, reserving the right to add or change terms depending on the number of responsive documents:

- Toilet*
- Plumb*
- Lavator*
- Maintenance AND (toilet OR plumb* OR lavator* OR flush* OR sewer OR sewage OR kiosk OR "water closet" OR pip! OR cistern OR fixtur*)
- Maintain* AND (toilet OR plumb* OR lavator* OR flush* OR sewer OR sewage OR kiosk OR "water closet" OR pip! OR cistern OR fixtur*)
- (Grievance OR grieve OR complain*) AND (toilet OR sewage OR lavator* OR flush* OR sewer OR plumb* OR backflow* OR overflow* OR sanitary OR sanitat* OR OR unsanitary OR clean* OR condition* OR feces OR health OR safe* OR pip! OR cistern OR health OR safe* OR fixtur*)
- (Repair* OR replac* OR install OR inspect* OR fix* OR report* OR problem* OR defect OR issue OR broken) AND (toilet OR plumb* OR lavator* OR flush* OR sewer OR sewage OR kiosk OR "water closet" OR pip! OR cistern OR fixtur*)

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- Inhumane
- Unsanitary
- Flood* AND (cell OR unit)
- “soapy water”
- “drainage pipe*” OR “drain pipe*
- Noxious
- Gas*
- Toxic
- Sewage
- Sewer
- Backflow*
- Overflow*
- Unsanitary
- Sanitary
- Sanitat*
- health /3 safety
- Flush /3 valve*
- Clean*
- Condition*
- Feces
- Backflush*
- “Back pressure”
- “Back siphonage”
- Report AND (“water closet” OR kiosk)
- Engineer* AND report AND 2014
- Consult* /3 engineer*
- Hultz
- Tiffany /3 Roberts
- “Chase stack”
- Chase

We are hoping the parties can work together to come up with a reasonable and accurate list of custodians, databases, and search terms. If needed, we’d be happy to meet and confer after Defendants provide an updated list.

Best Regards,

A handwritten signature in blue ink, appearing to read "Scott Pritchard".

Scott Pritchard

EXHIBIT A

From: [Frank Cornelius](#)
To: [Pritchard, J. Scott](#)
Cc: [Jana Hartman](#); [Mitchell West](#); [Nadine Christian-Brittain](#); [Rubin, Michael P.](#); [walters@lowegrahamjones.com](#); [Lisa Elliott](#); [Harris, Alissa N.](#)
Subject: RE: Wolfclan v. Pierce County (C23-5399-TSZ-SKV) - Custodians/Databases Follow up
Date: Thursday, June 20, 2024 8:09:18 AM
Attachments: [image002.png](#)



Good morning. Without waiving objections to Plaintiff's current discovery requests, please see below initial custodian/database identification.

- **Custodian(s):** Sheriff's Dept./Jail; Facilities Management; Information Technology (IT) Dept.
- **Database:** Email/Outlook boxes and MS Team Chats for Ed Troyer, Patti Jackson, Matthew Dobson, Anthony Mastendrea
- **Search terms and searches (Plt. to identify applicable Interrog./RFP):** toilet, plumbing, backflow, overflow (Plaintiff to provide any additional proposed search terms)

Please advise.

Frank Cornelius

Deputy Prosecuting Attorney | Civil Litigation

Pierce County Prosecuting Attorney's Office Civil Division

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From: Frank Cornelius

Sent: Monday, June 17, 2024 8:17 AM

To: Pritchard, J. Scott <scott.pritchard@stoel.com>

Cc: Jana Hartman <jana.hartman@piercecountywa.gov>; Mitchell West <west@lowegrahamjones.com>; Nadine Christian-Brittain <nadine.christian-brittain@piercecountywa.gov>; Rubin, Michael P. <michael.rubin@stoel.com>; walters@lowegrahamjones.com; Lisa Elliott <lmariroybal@gmail.com>; Harris, Alissa N. <ali.harris@stoel.com>

Subject: RE: Wolfclan v. Pierce County (C23-5399-TSZ-SKV) - Custodians/Databases Follow up

Good morning Scott. Sorry for the delay. My goal is to get information to you early this week and I will follow up by Wednesday.

Frank Cornelius

Deputy Prosecuting Attorney | Civil Litigation

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From: Pritchard, J. Scott <scott.pritchard@stoel.com>

Sent: Monday, June 17, 2024 8:15 AM

To: Frank Cornelius <frank.cornelius@piercecountywa.gov>

Cc: Jana Hartman <jana.hartman@piercecountywa.gov>; Mitchell West <west@lowegrahamjones.com>; Nadine Christian-Brittain <nadine.christian-brittain@piercecountywa.gov>; Rubin, Michael P. <michael.rubin@stoel.com>; walters@lowegrahamjones.com; Lisa Elliott <imarieroybal@gmail.com>; Harris, Alissa N. <ali.harris@stoel.com>

Subject: Wolfclan v. Pierce County (C23-5399-TSZ-SKV) - Custodians/Databases Follow up

Hi Frank,

Just checking in on your disclosure regarding custodians and databases. At our June 10th conference, you had committed to sending us something by Friday, June 14. Please let us know when we can expect it.

Thanks,

Scott

Scott Pritchard | Partner

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